IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No.2177 of 1990

Shri Sudhir Dattatraya Jadhav Petitioner

Vs.

Dnyan Sadhana Junior College & ors. Respondents

Mr.J.G.Reddy for petitioner.

Mr.P.P.Chavan for resp.nos.2 and 3.

CORAM: B.H.MARLAPALLE,J.

August 29, 2006.

ORAL JUDGMENT :

1. Being aggrieved by the judgment and order dated 21st September 1987 thereby dismissing Appeal No.19 of 1987 by the School Tribunal, Bombay Region, the appellant - teacher has filed this petition under Article 227 of the Constitution. He had passed his B.A. degree with History in the year 1983 in pass class and proceeded to obtain his M.A. Degree in the year 1985 in the second class. He completed the Diploma in Higher Education in July 1987. It appears that on 25th March 1986 an advertisement was released by the Respondent No.1 - Society for various posts in its Degree college as well as Junior college and in

the "Open category" as well as in the "Reserved category" and one such post was Lecturer in History for the Junior college which was reserved for a backward class candidate. The petitioner being himself from such a reserved category, submitted his application on the basis of his qualifications of M.A. (History) and was selected. Consequently an appointment order was issued on 7/5/1986 but only for a specific period on temporary basis i.e. from 20/6/1986 to 30/4/1987 in the pay scale of Rs.500-20-700-25-900 plus other allowances as per the State Government Rules. When his temporary tenure was to expire on 30/4/1987 as per the appointment letter dated 7/5/1986 yet another advertisement was released by the Respondent - Society and published in one of the local newspapers on 25/4/1987 inviting applications for various posts in the Degree college as well as the Junior college. One post in reserved category for history in the Junior college was also advertised and the petitioner applied for the same. He was interviewed on 3/6/1987 by the selection committee but was not found suitable. On the contrary one Shri Jagdale who was also one of the reserved category candidates was selected.

2. The petitioner filed his appeal before the School Tribunal on or about 13/7/1987 alleging that when he went to resume his duties on 20/6/1987 he was not allowed to join in the Junior college and, therefore, his service as a Lecturer was terminated orally. The management filed its written statement and pointed out that the petitioner was a temporary appointee as he did not fulfil the qualifications required for the post of Lecturer in Junior College and in the fresh round of selection when he was interviewed on 3/6/1987 he was not found fit by the selection committee. It was also pointed out that after 30/4/1987 the petitioner was not in the employment and, therefore, there was no question of allowing him to report to duty on 20/6/1987. The School Tribunal considered the rival contentions and recorded a finding that the petitioner was a temporary appointee, he did not fulfil the requirements of qualifications and his claim that he was orally terminated from service was false. As per the School Tribunal the petitioner was neither appointed on probation nor was in the employment in June 1987 in the respondent-college. It was also pointed out that while the appeal was pending he was already appointed as an Assistant Teacher in the

Secondary School run by the Kalyan Municipal Corporation at Dombivli (East). The appeal was, therefore, dismissed.

3. Schedule "B" to the MEPS Rules, 1981 lists out the qualifications required for appointment of teachers in the schools and Clause III deals with the qualifications for appointment in junior college. The qualifications for full time teachers in junior colleges are Master's Degree of a statutory University in second class in the respective subjects plus B.Ed., or a Diploma or Certificate in Teaching approved by the Department. As on 20/6/1986 the petitioner was not holding the required qualifications in asmuchas he did not possess the additional qualifications of B.Ed. or Diploma or Certificate in Teaching approved by the Department. It was under these circumstances that he was appointed on a temporary basis for the academic year 1986-87. When he appeared for interview on 3/6/1987 in response to his application, he did not possess the requisite qualifications and in any case he was not found to be fit by the selection committee. As on 20/6/1987 he did not have any claim for the post of Lecturer in History in the Junior college and he

was not in the employment on and after 1/5/1987. He, therefore, approached the School Tribunal on a false pretext of oral termination of service.

4. The management, on the other hand, placed before the School Tribunal the letter issued by the Junior College run by the Kalyan Municipal Corporation at Dombivli (East) and also an affidavit dated 22/8/1989 by Mr.D.A. Dalvi, the Principal. It was stated that the petitioner came to be employed as a Lecturer in the said Junior College since 6/11/1987 and though his term was to expire on 30/4/1988 his services were continued. It is thus clear that the impugned order is supported by the proper reasons and the claim of the petitioner was rightly dismissed by the School Tribunal. The reliance of Mr.Reddy on the Division Bench Judgment (unreported) of this Court in the case of the Principal, Siddharth College of Arts, Science & Commerce v. Mrs. Meenal Manjrekar (Writ Petition No.4451 of 1985) decided on 27th July 1988 is misplaced. As noted earlier in the instance case the petitioner did not meet the educational qualifications and his case that he was orally terminated from services was not on good grounds.

5. In the premises this petition fails and the same is hereby dismissed. Rule discharged with no order as to costs.

(B.H.MARLAPALLE,J.)